BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

DRAFT

In the Matter of	)	
	)	No. O-01-112
Opinion requested by	)	June 29, 2001
Lance H. Olson, Esq.	)	
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BY THE COMMISSION: Lance Olson, Counsel for the California Democratic Party, has requested an opinion of the Fair Political Practices Commission on the following question[1]:

I. ISSUE PRESENTED

Pursuant to Government Code sections 81009.5 and 85312, are the California Democratic Party and the California Republican Party subject to the filing requirements of Los Angeles City Ordinances Nos. 173930 and 173929 with respect to payments made for member communications to support or oppose candidates in City elections?

II. SUMMARY OF CONCLUSION

No. The local ordinances are preempted by the Political Reform Act insofar as they impose "additional or different" filing requirements on the state party committees in areas of statewide concern.

III. BACKGROUND – FACTS

Proposition 34, passed by the voters at the statewide general election of November 2000, is a campaign finance measure intended, in its own words, to "strengthen the role of political parties in financing political campaigns … ." (Proposition 34, section 1(b)(7).) Among other changes, Proposition 34 added to the Political Reform Act a new provision, codified as Government Code section 85312,[2] which exempts from the definition of "contribution" or "independent expenditure" payments made by organizations, including the California Democratic and Republican Parties, for communications with their members even if those communications advocate

[1] The California Republican Party joined in Mr. Olson's request.

[2] All references are to the Government Code unless otherwise noted.

the election or defeat of clearly identified candidates. After Proposition 34, such payments are reportable by the parties only as ordinary expenditures.[3]

The California Democratic Party and the California Republican Party are "state filers" under Chapter 4 of the Act. This means they file as state general purpose recipient committees on a schedule mandated by the Act, and their reports are filed with the Secretary of State's office. Under the Act, the parties generally file semi-annual statements for each half of the year, plus additional reports triggered by election activity.[4] (§ 84200.) During an odd-numbered year, if the parties make contributions totaling $10,000 or more, either in connection with a state or local election or to elected state officers, additional supplemental pre-election or special odd-year reports may be required. (§§ 84202.5 and 84202.7.) For example, the California Democratic Party made contributions totaling $45,000 to Governor Gray Davis during the period January 1 through March 31, 2001, and was required to file a quarterly odd-year report on April 30, 2001. Contributions and independent expenditures of $1,000 or more made during the last 16 days before an election also can trigger "late reports" that must be filed within 24 hours. (§§ 84203 and 84204.)

Under section 85312, payments made by the parties for member communications no longer are treated as "contributions" or "independent expenditures", and thus do not trigger the filing of a supplemental pre-election statement, late contribution reports, or late independent expenditure reports. Moreover, because the payments are reported as ordinary expenditures, the parties are under no obligation to identify which candidates were discussed in any particular membership communication. The practical effect of section 85312 is that payments made by the parties for member communications to influence a local election may not be disclosed until after the election takes place, and even then the reports may not reveal which payments were tied to any particular candidate.

In January 2001, the Commission adopted emergency regulation 18573 to clarify which provisions of Proposition 34 apply to local elections. Subdivision (b) of that regulation stated that, based on the Commission's initial review of Proposition 34, "a local government agency may not require reporting prohibited by Government Code section 85312."[5]

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[3] We note that SB 34, currently pending before the Legislature, would require the parties to report member communication payments as though they were contributions or independent expenditures, as occurred prior to passage of Proposition 34.

[4] The Commission recently amended the Form 460 on which the semi-annual reports are filed to, among other things, include the code "MBR" to identify payments made for membership communications.

[5] The emergency regulation expired by operation of law on May 22, 2001. The comment to the regulation stated: "The statutory expiration of this emergency regulation shall not be construed to indicate that the above-entitled statutes are no longer applicable to local candidates, committees or jurisdictions."

Los Angeles has a comprehensive local campaign finance ordinance that includes public financing of City campaigns, limits on contributions to and independent expenditures on behalf of candidates, restrictions on candidate spending, and strict disclosure requirements. Member communications made by the parties became an issue in the Los Angeles mayoral primary of April 10, 2001. Because of section 85312, the parties did not have to file reports disclosing their expenditures on member communications prior to the primary election. The City did not approach the Commission to discuss what options, if any, it had in light of section 85312 and our emergency regulation 18573. Instead, concerned that the public would not know of similar expenditures made for the general election, on May 4, 2001, the Los Angeles City Council adopted two emergency ordinances establishing additional notification, disclosure and filing requirements for organizations that make member communications in support of or opposition to City candidates.

The ordinances became effective on May 8, 2001, and apply only to expenditures made in connection with the City's 2001 primary and general municipal elections. An ordinance that would prospectively place the same requirements into the City's campaign finance ordinance is pending Council approval. (Alperin ltr. to Chairman Getman, 1/1/01, fn. 2.)

Ordinance 173930 requires any committee that made more than $10,000 in member communications relating to the primary election to file a report with the Los Angeles City Ethics Commission containing "all information required by California Government Code section 84211." (Ord. 173930, § 2.) The report must include "all contributions received between January 1, 2001 and April 10, 2001, and all expenditures and payments within the meaning of California Government Code Section 85312 made between January 1, 2001 and April 10, 2001, in support of or opposition to candidates for elective City office." (*Id*.) The report was due within 14 days of the ordinance's effective date. (*Id*.) Ordinance 173929 contains similar disclosure requirements for member communications directed at the general municipal election. That report was due seven days before the general election, which took place on June 5, 2001. As with Ordinance 173930, the reports required by 173929 must identify "all contributions received on or after the effective date of this ordinance, and all expenditures and payments within the meaning of … Section 85312 made … on or after the effective date of this ordinance, in support of or opposition to candidates for elective City office." (Ord. 173929, § 6.)[6]

The City Ethics Commission and the City Attorney's Office informed us at the hearing on this matter that the ordinances require reporting of all contributions made to the political parties regardless of whether those contributions were used to fund

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[6] Ordinance 173929 also requires any person who makes or incurs payments of more than $1,000 for member communications to notify the City Ethics Commission by fax, e-mail or telegram within 24 hours each time such payment is made or incurred. In addition, it requires each person who made or incurred payments of more than $1,000 for member communications between April 11, 2001 and the effective date of the ordinance to notify the City Ethics Commission within 72 hours of the effective date. The 24-hour and 72-hour notices must contain specific information about the payor, the payee and the candidate supported or opposed.

membership communications directed at City candidates. This is confirmed by the City Ethics Commission's "Notification of Independent Spending and Communications" (May 2001), which states that any "person" spending $1,000 or more on member communications regarding City candidates must report "all payments made to support or oppose City candidates" and "any contributions the group received." Assistant City Attorney Anthony Alperin explained that disclosure was not limited to contributions earmarked or solicited for City candidates because that was thought to be too burdensome for the parties. (Minutes of June 8, 2001, Comm'n mtg., remarks of A. Alperin.) The Executive Director of the City Ethics Commission confirmed that because of the nature of the state parties and the fact contributions are not earmarked for particular candidates, the commission chose to require reporting of all contributions, regardless of their applicability to the Los Angeles election. (*Id*., remarks of L. Pelham.)

Review of the parties' reports readily demonstrates that not all contributions received this calendar year were spent on the Los Angeles elections. For example, the California Democratic Party reported receiving contributions of $1.8 million from January 1 to March 31, 2001; the party gave just over $61,000 of that in contributions to state officeholders. The California Republican Party raised nearly $777,000 from January 1 to April 11, 2001, and made $32,500 in contributions to state candidates. The City ordinances nonetheless required disclosure of all contributors to the parties during the period of January 1, to April 10, 2001, as part of the primary election report.

In sum, the two emergency ordinances require the parties, state general purpose committees, to file special reports with the City Ethics Commission in addition to the reports required by the Political Reform Act. The ordinances specify different timetables and different disclosures than are required of the parties under the Political Reform Act. They require reporting of all contributions regardless of their use in City elections. Finally, these requirements are directed at reporting of payments for member communications in a manner that differs distinctly from the reporting of such payments under section 85312.

IV. DISCUSSION

A. Jurisdiction

Before proceeding with an analysis of the issue at hand, we first address the threshold question of this Commission's authority to issue an opinion on this matter.

The Commission has "primary responsibility for the impartial, effective administration and implementation" of the Act. (§ 83111.) The Commission also is authorized to interpret the Act by issuing opinions to requestors about their duties under the Act. (§ 83114.) The importance of the Commission's perspective on provisions of the Act recently was affirmed in *Californians for Political Reform Found'n. v. Fair Political Practices Comm'n* (1998) 61 Cal.App.4th 472, in which the Court of Appeal stated:

> "[B]ecause of the agency's expertise, its view of a statute or regulation it enforces is entitled to great weight unless clearly erroneous or unauthorized. [Citations omitted.] [T]he construction of a statute by officials charged with its administration ... is entitled to great weight. The Commission is one of those agencies whose expertise is entitled to deference from courts. [Citation omitted.]" (*Id*., at p. 484.)

With regard to the Commission's responsibility to issue opinions regarding a requestor's "duties" under the Act, the City Attorney urges the Commission to define that term narrowly. Under such construction, it is argued, the Commission may issue opinions only where the statute in question imposes an affirmative obligation to perform a given task or forbids the performance of another. Accordingly, the Commission would not be entitled to opine on the instant matter because sections 81009.5 (concerning local ordinances) and 85312 (membership communications), by their strict terms, do not impose any "duties" on the California Democratic and Republican parties.

Such a narrow construction of the term "duties" is inconsistent with the purposes of the Act and the Commission's role as its primary interpreter. The "duties" about which the Commission may opine include not only obligations the Act *imposes* but also obligations the Act *excuses*. This is especially true where the matter at hand is of such fundamental import as the interaction between state laws enacted by the voters and emergency ordinances adopted by a charter city. In such circumstances, the Commission's interpretation of the state laws is a necessary part of analyzing whether conflicts exist.

The Commission is singularly entrusted to carry out the provisions and spirit of the Act. We fulfill that responsibility here by advising the requestors - and the public - about what we believe the Act requires or forbids.[7] In sum, issuance of our opinion today is wholly within our statutory mandate.[8]

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[7] It is also suggested that the issue is moot because the emergency ordinances expired June 5. We note for the record, however, that the City Council has indicated it will consider permanent adoption of these ordinances at a future council meeting, a position urged by the City Ethics Commission. Thus, we find the matter remains open for our consideration.

[8] This is not to say, however, that the Commission is not constrained in issuing this or any other opinion. Article III, section 3.5 of the California Constitution prohibits a state agency from refusing to follow a statute on the ground it is unconstitutional. If we agree with the requestors that section 85312 preempts the local ordinances, section 3.5 of Article III, which prevents even the mere declaration that a statute is unconstitutional, is not implicated because the Commission would not "declare a statute unenforceable" or "unconstitutional." (Art. III, § 3.5, subds. (a) and (b).) On the other hand, a conclusion that section 85312 does not apply to the City of Los Angeles is effectively the same as a "declaration" that the statute is unenforceable or unconstitutional. Article III, however, does not prevent us from evaluating, as we do here, whether section 85312 may be interpreted consistent with Article XI, section 5, the "home rule" provision. (*Regents of the University of Cal. v. Public Employment Relations Board, et al.* (1983) 139 Cal.App.3d 1037.)

B. The Political Reform Act and Local Regulation

Section 81013 provides that nothing in the Political Reform Act ("Act") prevents a local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with the Act. The section addresses generally the authority of local agencies to impose obligations beyond those set forth in the Act and makes clear that the Act is not intended to so occupy the field it regulates that state and local government agencies are powerless to enact additional regulations. (*In re Alperin*, 3 FPPC Ops. 77.)

However, the authority granted to local agencies is significantly limited by Section 81009.5, subdivision (b). That provision prohibits a local government agency from enacting any ordinance imposing filing requirements "additional or different" from those set forth in chapter 4 of the Act unless the additional or different filing requirements apply only to:

> "…the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively."

This provision allows local jurisdictions some flexibility to require additional or different filing requirements for committees active exclusively in local elections. Proposition 34 appears to endorse this theme by adding section 85703. It provides:

> "Nothing in this act shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with the provisions of Section 85312."

Section 85312, also enacted by the voters with passage of Proposition 34, provides:

> "For purpose of this title, payments for communications for purpose of this title to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or independent expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. "

The new ordinances are subject to section 81009.5. Ordinance 173930 requires a report to be *filed* with the Los Angeles City Ethics Commission so it clearly is within the purview of this section. The notifications required by Ordinance 173929 are also *filings* since such notifications must be made to the City Ethics Commission.

C. Resolving Conflicts Between State and Local Law

Counsel for the California Democratic Party argues that the Los Angeles ordinances require reporting in a manner that directly conflicts with section 85312. The question of preemption of a local ordinance by a state law is a constitutional one:

> "When the local matter under review implicates a municipal affair and poses a genuine conflict with state law, the question of statewide concern is the bedrock inquiry through which the conflict between state and local interests is adjusted. If the subject of the statute fails to qualify as one of statewide concern, then the conflicting charter city measure is a municipal affair and beyond the reach of legislative enactment. … If, however, the court is persuaded that the subject of the state statute is one of statewide concern and that the statute is reasonably related and narrowly tailored to its resolution, then the conflicting charter city measure ceases to be a municipal affair pro tanto and the Legislature is not prohibited by article XI, section 5, subdivision (a), from addressing the statewide dimension by its own tailored enactments.'" (*Johnson v. Bradley* (1992) 4 Cal.4th 389, 399, quoting *CalFed Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1, 17; internal quotations and brackets eliminated.)

The threshold inquiry is whether there is a conflict between the two sets of laws. If the laws conflict, then further analysis is required to determine whether the state law preempts the local ordinances. We analyze the question posed by the requestors following the structure prescribed by the *Johnson* and *CalFed* courts.

STEP 1A. DETERMINATION THAT A CONFLICT EXISTS:

For an actual conflict to exist, the purported conflict must be a genuine one, unresolvable short of choosing between one enactment and the other. (*CalFed*, *supra*, at p. 17.) The matter also must implicate a "municipal affair."

There is no dispute here that the ordinances conflict with the Act. The City Attorney readily concedes, as he must, that the notifications and filings imposed by the ordinances are in addition to or different from those currently required by the Act. The ordinances also require reporting from entities that, under the Act, are considered state filers and thus solely required to follow state law reporting requirements. Thus, the local filings are expressly prohibited by section 81009.5(b).

STEP 1B: DOES THE ORDINANCE IMPLICATE A "MUNICIPAL AFFAIR"?

The *CalFed* case lists two questions as "preliminary conditions" that must be fulfilled before the primary inquiry is made. (*CalFed*, at 17.) The first, above, asks whether there is actual conflict. That condition is satisfied. The second asks whether the matter implicates a "municipal affair." The Los Angeles ordinances implicate both municipal and statewide affairs.

As the Constitution states, and the *Johnson* case affirms, the conduct of municipal elections and the "manner" and "method" by which municipal officers are elected are, by definition, "municipal affair[s]." (Cal.Const., art. XI, § 5, subd. (b)(4); *Johnson v. Bradley*, *supra*, 4 Cal.4th at p. 398.) The regulation of persons attempting to influence the outcome of a local election by supporting one mayoral candidate versus another falls within the ambit of a "municipal affair."[9]

The Los Angeles ordinances, however, are extra-municipal in their operation and scope. The ordinances regulate *any* person active in City elections regardless of whether that person also is active in elections outside the City. In so doing, the ordinances require the reporting of information that does not concern City elections. Here, for instance, the ordinances required the parties to report *all* their contributors, even though not all those contributions were spent on the Los Angeles election.[10]

There was some suggestion at the hearing that, because the parties are active on many different fronts at any given moment, it might be impossible to pinpoint exactly which contributions were spent on the Los Angeles election absent some evidence of "earmarking." While the broad sweep of the ordinances may stem from practical necessity, it nonetheless takes the ordinances outside the realm of a purely municipal affair. On this point, the City Attorney candidly conceded that the City would not enforce that provision if the parties refused to name contributors whose money was not used in Los Angeles. The City's attempt to regulate an entity active in elections throughout the state necessarily draws it into statewide affairs that concern persons outside the City's borders.

Thus, because the statute is extra-municipal in its application, the second "preliminary condition" of *CalFed* is not satisfied. On this ground, we conclude the statute is preempted by Sections 81009.5 and 85312. However, even if the ordinances

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[9] Though not explicitly stated, the City Attorney suggests that the City has "plenary" authority in matters of municipal elections, by virtue of article XI, subdivision (b)(4). Such authority, the attorney suggests, means the city has exclusive authority to regulate in that area. The *Johnson* Court has stated, however, that even if a given matter is deemed to be a municipal affair, the city's regulation remains subject to the constitutional guarantees and requirements of the state and federal constitutions. (*Johnson*, *supra*, 4 Cal.4th at p. 404, fn. 15.) Moreover, the *Johnson* Court rejected precisely this "expansive" view when the City advanced it in that case. (*Id.*, at pp. 403-404.) Thus, the *Johnson* and *CalFed* cases reject the idea of subject matter exclusivity and we follow that judgment. (See discussion in "Step 2.")

[10] For instance, a report filed by the California Republican Party with the City Ethics Commission pursuant to the ordinances shows that the party used its funds to make contributions totaling more than $32,000 to Assembly races outside the City.

implicated a purely municipal affair, we would conclude nevertheless that state law preempts the ordinances for the reasons discussed below.

STEP 2. DOES THE STATE STATUTE IMPLICATE A STATEWIDE CONCERN?

Under *CalFed* and *Johnson,* once the matter implicates a municipal affair and poses a genuine conflict with state law, our inquiry under article XI, section 5, subdivision (a) of the Constitution focuses on whether the state law qualifies as a matter of "statewide concern." (*CalFed, supra,* 54 Cal 3d. at p.17; *Johnson, supra,* 4 Cal.4th at p. 404.) The first rule about this step is that it is not to be applied mechanically. "In performing that constitutional task, courts avoid the error of 'compartmentalization,' that is, of cordoning off an entire area of governmental activity as either a 'municipal affair' or one of statewide concern." (*CalFed, supra,* at p. 17.) From a practical standpoint, there is no such thing as an area of law being "off limits" to either the state or local government:

> "When a court invalidates a charter city measure in favor of a conflicting state statute, the result does not necessarily rest on the conclusion that the subject matter of the former is not appropriate for municipal regulation. It means, rather, that under the historical circumstances presented, the state has a more substantial interest in the subject than the charter city." (*Id.,* at p. 18.)

Section 81009.5 provides a uniform approach to filing requirements for candidates and committees active throughout the state while simultaneously preserving flexibility for local jurisdictions to regulate their local candidates and committees. Commission staff has advised consistent with this thinking. In the *Moll* Advice Letter, staff stated:

> "The statewide concern at issue here is statewide uniformity of filing requirements imposed by state law on persons running statewide campaigns; more specifically, the concern is that a person running such a campaign may easily and logically determine where to file the reports and statements required by the Act. It seems self-evident that designating in state law a particular, easily identified person to receive the filings is reasonably related to that end. " (*Moll* Advice Letter, No. A-96-315.)

In joining the California Democratic Party's request for this opinion, the California Republican Party expressed concern that "it may become subject to multiple, duplicative, and often different or inconsistent reporting and disclosure requirements imposed by other charter cities in their efforts to regulate constitutionally-protected and state-regulated 'member communications'…." That concern is more than theoretical; it is based on historical fact.

In its early years, the Act allowed local jurisdictions to impose their own campaign finance rules, not just on local candidates and committees, but also on committees active on a statewide basis. By 1985, some 42 local jurisdictions had their own campaign finance laws and reporting requirements.[11] A committee active in elections throughout the state, such as those concerned with environmental issues or taxpayers' rights, filed reports with state officials and with each of the 42 local agencies that sought additional information from the committee. This complex overlay of state and local laws caused problems, not just for the committees but also for this Commission's efforts to enforce and interpret the state law.

In 1984, the Commission convened a task force "to review and comment on problems with the current reporting scheme." (Ltr. from Comm'n Chairman Stanford to Assemblyman Klehs, Chair of Assembly Elec. & Reapp. Cmte, 7/16/85, re SB 726, at p. 1.) Specifically, the Commission and staff were aware that the campaign disclosure provisions of the Act were "complex and pose serious difficulties for many candidates, treasurers of campaign committees and contributors who must comply with the Act's requirements." (*Id*.) The task force appointed by the Commission comprised a broad spectrum of interested groups and individuals:

> "The task force was chaired by the Sacramento City Clerk and its members included representatives of the Democratic and Republican Parties, city and county clerks, the City and County Clerks Associations, campaign committee treasurers, the Secretary of State, the Franchise Tax Board, the Attorney General's office, staff of the Legislature, individuals from the private sector who provide legal and other campaign-related services to candidates and committees, and Common Cause." (*Id*.)

After a year of extensive study, the task force found that the reporting schemes then in existence were unduly burdensome and confusing. Based on the task force's recommendations, the Commission the following year sponsored SB 726, which, among other things, amended Section 81009.5 to put state committees under the sole jurisdiction of the Commission for purposes of reporting and disclosure. At the same time, the legislation tailored state reporting requirements to ensure that state committees filed additional pre-election reports whenever they became active in local elections. (§84202.5.) Letters of support for the bill were filed by the Secretary of State, the County Clerks Association, the City Clerks Association, the City of San Diego and the City of La Mesa, as well as this Commission.[12] The author reported to the Governor that the bill "has no opposition," and it was signed into law on October 1, 1985.

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[11] Today, there are some 105 charter cities in California. At least two – Oakland and San Francisco – have local campaign finance ordinances that include public financing. If Los Angeles is allowed to impose additional reporting requirements on state committees, other charter cities might do the same.

[12] The *San Diego Union* editorialized that SB 726 was "good legislation" and urged its enactment into law. (Editorial, *San Diego Union*, 8/27/85.) The City of San Diego supported the legislation for "simplify[ing] campaign regulations while maintaining their safeguards." (Ltr. from San Diego City Clerk to Sen. McCorquodale, 8/15/85.) The City Clerks Association of California voted unanimously to support

Section 81009.5, which has been unchallenged for the past 16 years, was the result of state and local frustration with the confusing and often duplicative filing requirements of multiple jurisdictions. It represents a reasoned balance between the need for disclosure and the need for simplicity and accountability. The uniformity and simplicity created by section 81009.5 are not ends in themselves. Rather, they are means to foster compliance with and effective enforcement of the Act, while ensuring that the electorate remains well-informed.

The question of "statewide concern" is addressed most thoroughly in the *CalFed* case. In *CalFed*, the record established a history of treatment of financial corporate entities as a matter of state concern. (*Id.*, at pp. 19-20.) In its discussion, the Court described a long federal and state regulatory history and focused on then-recent changes in those schemes to address the faltering savings and loan situation. Among measures proposed by a federal task force to deal with the insolvencies of the 1980's was one to lift taxes on savings banks based on deposits. Finally, a consistent taxing scheme by the states assured predictable and identifiable costs for the banks. (*Id.*, at pp. 19-23.) Because the "comprehensive regulation" of savings banks took place "almost entirely at state and federal levels," the tax policies "necessarily transcend local interests; they become, in other words, a subject of statewide concern." (*Id.*, at p. 23.)

In this case, as in *CalFed*, there is a lengthy history of state regulation of multi-jurisdiction committees. Since section 81009.5 was amended in 1985 (Stats. 1986, Ch. 1456), there has been an arm out against local regulation of state committees, which in the past, the City of Los Angeles has followed. As in *CalFed*, a comprehensive scheme located centrally in one body of law is a legitimate state goal when to do otherwise might cause confusion or undue burden on the object of regulation. In *CalFed*, that burden was on the savings and loan institutions that would be subject to numerous expensive local taxes not necessarily based on profit. The specter of countless tax schemes threatened the system itself. In this case, we agree with the political parties' assertions that a similar fate would befall state committees.

That there might be adverse consequences in a municipal election if the local ordinances fail does not mean that there is not a sufficient statewide interest. In the *CalFed* case, the city lost millions of dollars in uncollectable tax revenues. Nevertheless, the question in that case was "not whether the amendment [of the law by the state] was prudent public policy…. This issue is whether the … burden on financial corporations… is of sufficient extramural dimension to support legislative measures reasonably related to its resolution." (*CalFed.*, at pp. 23-24.) For the court, it was enough that the record established substantial support for the legislative decision and that it was narrowly tailored to remedy that situation. (*Id.*, at p. 24.)

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the legislation. (CCAC ltr. to Sen. McCorquodale, 4/25/85.) Secretary of State March Fong Eu stated the bill would "increase public awareness, simplify disclosure requirements for candidates and committees, and reduce excessive paperwork…." (Eu ltr. to Assemblyman Klehs, 7/8/85.) The County Clerks Association offered its assistance in the passage of the bill. (CCA ltr. to Sen. McCorquodale, 8/12/85.)

STEP 3. IS THE STATE STATUTE REASONABLY RELATED TO THE STATEWIDE CONCERN AND IS THE STATUTE NARROWLY TAILORED?

Under *CalFed* and *Johnson,* the third step in our analysis asks whether the state statute is reasonably related and narrowly tailored to the resolution of a matter of statewide concern. (*Johnson, supra,* 4 Cal.4th at p. 410; *CalFed, supra,* 54 Cal.3d at p. 24.) Section 81009.5 prohibits local agencies from imposing additional or different filing requirements only on candidates and committees active beyond the local jurisdiction. Put another way, a local agency is free to impose additional or different filing requirements on any candidate or committee active only in that city or county, preserving local autonomy over local candidates and committees. Section 81009.5 is crafted narrowly to reach only committees active throughout the state. It thus is narrowly tailored to meet the interests in statewide uniformity and compliance discussed above.

CONCLUSION

The issue before us and the issue we decide today is a narrow one, pertaining solely to the reporting obligations of the requestors, state political parties, in light of recent city ordinances that contradict state law enacted by the voters in Proposition 34. Contrary to the assertions of some at the hearing before this Commission, the issue is *not* whether we favor disclosure of important information to the voters. Nor is the issue before us whether we agree with the City of Los Angeles in adopting the respective ordinances. We may empathize with the City Council in its efforts to provide voters with information deemed essential.[13] We are not, however, a legislative body. Our task is not to evaluate the wisdom of the voters of the State of California or the City Council of Los Angeles. Rather, our statutory responsibility is to implement and defend the Political Reform Act. That extends not to the portions of the Act that the majority of us may agree with, but to the entire Act. Moreover, we have a constitutional duty not to declare a portion of the Act unconstitutional unless and until an appellate court has so ruled. In the absence of such a court ruling, we are bound to interpret the law consistent with that Constitutional mandate. Under these constraints we have decided the narrow issue before us and none other.

Approved by the Commission on July 9, 2001. Concurring: Commissioners Downey, Getman, Knox and Swanson. Dissenting: Commissioner Scott.

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Karen A. Getman,
Chairman

[13] Indeed, at the same time it reached its initial decision on this matter, the Commission voted to urge the Legislature to pass the stricter reporting requirements contained in SB 34. Those requirements would allow for the reporting of party expenditures on member communications in the same manner as occurred prior to the passage of Proposition 34.